UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,520	02/26/2004	Kent F. Hayes JR.	RSW920030232US1	6473

45541   7590   06/25/2009

HOFFMAN WARNICK LLC
75 STATE ST
14TH FLOOR
ALBANY, NY 12207

EXAMINER
KEEHN, RICHARD G

ART UNIT	PAPER NUMBER
2456	

NOTIFICATION DATE	DELIVERY MODE
06/25/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCommunications@hoffmanwarnick.com

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>03 April 2009</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-32* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-32* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Claims 1-32 have been examined and are pending.

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/3/2009 has been entered.

Response to Arguments

2.   Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

3.   Claim 24 is objected to because of the following informalities: The period at the end of the sentence is missing. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4.   The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5.   Claims 1-3, 5-11, 13-18, 20-23, 25-27 and 29-32 are rejected under 35

U.S.C. 103(a) as being unpatentable over US 2003/0023661 A1 (Clohessy et al.), and

further in view of US 6,493,871 B1 (McGuire et al.).

         As to Claims 1, 10, 16 and 25, Clohessy et al. disclose a computer-implemented

method, a computer-implemented method, a computerized system for resolving

prerequisites, and a program product stored on a recordable medium and executed by a

computer, respectively, for client devices in an Open Service Gateway Initiative (OSGi)

framework, comprising:

         determining, on a server, an OSGi bundle to be loaded on a client device

(Clohessy et al. discloses determining by the server, the runtime resources needed on,

and to be loaded on the client device - Page 4, ¶ [0139]; ¶ [0038] recites the use of

OSGi bundles);

         OSGi bundles (Clohessy et al. discloses determining by the server, the runtime

resources needed on, and to be loaded on the client device - Page 4, ¶ [0139]; ¶ [0038]

recites the use of OSGi bundles);

         identifying a final set OSGi bundles on the server that fulfills the resource

limitations of the client device (Clohessy et al. discloses that the bundles needed are

identified, and not sent until the client has sufficient resources available - Page 4, ¶

[0043]).

Clohessy et al. do not explicitly disclose determining, on a server, prerequisites

to be loaded on a client device, the prerequisites including a set of all that are

necessary for utilizing the {software to be loaded]; communicating, prior to

communicating any of the {software] to the client device, a list of the prerequisites from

the server to the client device; receiving a response from the client device, wherein the

response identifies any resource limitations of the client device determined by the client

device based on a comparison of the list of the prerequisites and current resources of

the client device, the resource limitations including all prerequisites of the list of the

prerequisites that are not currently present on the client device; and resolving the

prerequisites by identifying a final set {of software} on the server that fulfills the

prerequisites within the resource limitations of the client device. However McGuire et al.

disclose

determining, on a server, prerequisites to be loaded on a client device, the

prerequisites including a set of all that are necessary for utilizing the {software to be

loaded] (McGuire et al. disclose determining on a server, a list of files required to install

the software package that the client requested so that that software package can

operate on the client - Column 4, lines 13-37);

communicating, prior to communicating any of the {software} to the client device,

a list of the prerequisites from the server to the client device (McGuire et al. disclose

communicating the list from the server to the client – Column 4, lines 17-21);

receiving a response from the client device, wherein the response identifies any

resource limitations of the client device determined by the client device based on a

comparison of the list of the prerequisites and current resources of the client device, the

resource limitations including all prerequisites of the list of the prerequisites that are not

currently present on the client device (McGuire et al. disclose the client executing the

comparison of its resources against prerequisites and sending the needed list to the

server - Column 4, lines 21-27); and

resolving the prerequisites by identifying a final set {of software} on the server

that fulfills the prerequisites within the resource limitations of the client device (Mcguire

et al. discloses the server sending the necessary files to the client based on a response

from the client on resource deficiency - Column 4, lines 30-37); and

{CLAIM 10 ONLY}

caching information derived from the response on the server (Mcguire et al.

discloses server caching – Column 13, lines 35-38).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine the process of resolving client prerequisites taught by

McGuire et al., with sending OSGi bundles from a server to a client taught by Clohessy

et al., in order to minimize the amount of data to be downloaded by downloading only

those files needed to update the client computer (McGuire et al. – Column 4, lines 13-

17).

As to Claim 2, the combination of Clohessy et al. and McGuire et al. discloses

the method of claim 1, wherein the method is performed recursively until the

prerequisites are completely resolved (Clohessy et al. – Figure 4 shows the recursive

path used to resolve prerequisites, 104-106-108-109-110-112-104-etc. until 114 or

END).

As to Claim 3, the combination of Clohessy et al. and McGuire et al. discloses

the method of claim 1, further comprising loading the final set of OSGi bundles on the

client device if the prerequisites are completely resolved (Clohessy et al. – Figure 4,

elements 108 and 114 show loading the final set of OSGi bundles on the client device).

As to Claim 5, the combination of Clohessy et al. and McGuire et al. discloses

the method of claim 1, wherein the prerequisites comprise at least one item selected

from the group consisting of a service, a package and a computer resource needed by

client device (Clohessy et al. - Page 2, paragraphs 0024 and 0025 disclose the

prerequisite resources being flash memory and RAM, which are at least one item

selected from the group consisting of a service, a package and a computer resource,

i.e. computer resources).

As to Claim 6, the combination of Clohessy et al. and McGuire et al. discloses

the method of claim 1, further comprising caching information derived from the response

on the server (Mcguire et al. discloses server caching – Column 13, lines 35-38).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 7, the combination of Clohessy et al. and McGuire et al. discloses

the method of claim 1, wherein the method is applied in the presence of a low

bandwidth or high cost connection between the server and the client device (Clohessy

et al. – Page 1, paragraph 0002 discloses that the client device has limited system

resources which would include bandwidth related resources such as threads, sockets,

memory, RAM, etc. Paragraph 0003 further recites that the client device requires

frequent loading and unloading due to the narrow bandwidth as compared to a desktop

PC).

As to Claim 8, the combination of Clohessy et al. and McGuire et al. discloses

the method of claim 1, wherein the final set of OSGi bundles include OSGi bundles that

are identified from a repository accessed by the server (Clohessy et al. – Page 4,

paragraphs 0042 and 0043 disclose the process of loading OSGi bundles residing on

the server to the client).

As to Claim 9, the combination of Clohessy et al. and McGuire et al. discloses

the method of claim 1, further comprising:

receiving the prerequisites on the client device (McGuire et al. disclose the client

executing the comparison of its resources against prerequisites and sending the needed

list to the server - Column 4, lines 21-27);

determining whether the client device has the prerequisites, wherein any of the prerequisites that the client device does not have represent the resource limitations (McGuire et al. disclose the client executing the comparison of its resources against prerequisites and sending the needed list to the server - Column 4, lines 21-27); and

sending the response to the server, wherein the response includes the resource limitations (McGuire et al. disclose the client executing the comparison of its resources against prerequisites and sending the needed list to the server - Column 4, lines 21-27).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 11, the combination of Clohessy et al. and McGuire et al. discloses the method of claim 10, further comprising loading at the final set of OSGi bundles on the client device when the prerequisites are completely resolved (Clohessy et al. – Figure 4, elements 108 and 114 show loading the final set of OSGi bundles on the client device).

As to Claim 13, the combination of Clohessy et al. and McGuire et al. discloses the method of claim 10, wherein the prerequisites comprise at least one item selected from the group consisting of a service, a package and a computer resource needed by client device (Clohessy et al. - Page 2, paragraphs 0024 and 0025 disclose the prerequisite resources being flash memory and RAM, which are at least one item selected from the group consisting of a service, a package and a computer resource, i.e. computer resources).

As to Claim 14, the combination of Clohessy et al. and McGuire et al. discloses the method of claim 10, wherein the method is applied in the presence of a low bandwidth or high cost connection between the server and the client device (Clohessy et al. – Page 1, paragraph 0002 recites that the client device has limited system resources which would include bandwidth related resources such as threads, sockets, memory, RAM, etc. Paragraph 0003 further recites that the client device requires frequent loading and unloading due to the narrow bandwidth as compared to a desktop PC).

As to Claim 15, the combination of Clohessy et al. and McGuire et al. discloses the method of claim 10, further comprising:

receiving the prerequisites on the client device (McGuire et al. disclose the client executing the comparison of its resources against prerequisites and sending the needed list to the server - Column 4, lines 21-27);

determining whether the client device has the prerequisites, wherein any of the prerequisites that the client device does not have represent the resource limitations (McGuire et al. disclose the client executing the comparison of its resources against prerequisites and sending the needed list to the server - Column 4, lines 21-27); and

sending the response to the server, wherein the response includes the resource limitations (McGuire et al. disclose the client executing the comparison of its resources against prerequisites and sending the needed list to the server - Column 4, lines 21-27).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 17, the combination of Clohessy et al. and McGuire et al. discloses the system of claim 16, wherein the prerequisite resolution system recursively resolves the prerequisites (Clohessy et al. – Figure 4 shows the recursive path used to resolve prerequisites, 104-106-108-109-110-112-104-etc. until 114 or END).

As to Claim 18, the combination of Clohessy et al. and McGuire et al. discloses the system of claim 16, further comprising a bundle loading system for loading the final set of OSGi bundles on the client device if the prerequisites are completely resolved (Clohessy et al. – Figure 4, elements 108 and 114 show loading the final set of OSGi bundles on the client device).

As to Claim 20, the combination of Clohessy et al. and McGuire et al. discloses the system of claim 16, wherein the prerequisites comprise at least one item selected from the group consisting of a service, a package and a computer resource needed by client device (Clohessy et al. - Page 2, paragraphs 0024 and 0025 recite the prerequisite resources being flash memory and RAM, which are at least one item selected from the group consisting of a service, a package and a computer resource, i.e. computer resources).

As to Claim 21, the combination of Clohessy et al. and McGuire et al. discloses the system of claim 16, further comprising a response caching system for caching information derived from the response on the server (Mcguire et al. discloses server caching – Column 13, lines 35-38).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 22, the combination of Clohessy et al. and McGuire et al. discloses the system of claim 16, wherein the final set of OSGi bundles includes OSGi bundles that are identified from a repository accessed by the server (Clohessy et al. – Page 4, paragraphs 0042 and 0043 disclose the process of loading OSGi bundles residing on the server to the client).

As to Claim 23, the combination of Clohessy et al. and McGuire et al. discloses the system of claim 16, further comprising:

an analysis system for determining whether the client has the prerequisites, wherein any prerequisites that the client device does not have are identified as the resource limitations (McGuire et al. disclose the client executing the comparison of its resources against prerequisites and sending the needed list to the server - Column 4, lines 21-27); and

a response system for sending the response from the client device to the server

(Mcguire et al. discloses the server sending the necessary files to the client based on a

response from the client on resource deficiency - Column 4, lines 30-37).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 26, the combination of Clohessy et al. and McGuire et al. discloses

the program product of claim 25, wherein the program code for resolving recursively

resolves the prerequisites (Clohessy et al. – Figure 4 shows the recursive path used to

resolve prerequisites, 104-106-108-109-110-112-104-etc. until 114 or END).

As to Claim 27, the combination of Clohessy et al. and McGuire et al. discloses

the program product of claim 25, further comprising program code for loading the final

set of OSGi bundles on the client device if the prerequisites are completely resolved

(Clohessy et al. – Figure 4, elements 108 and 114 show loading the final set of OSGi

bundles on the client device).

As to Claim 29, the combination of Clohessy et al. and McGuire et al. discloses

the program product of claim 25, wherein the prerequisites comprise at least one item

selected from the group consisting of a service, a package and a computer resource

needed by client device (Clohessy et al. - Page 2, paragraphs 0024 and 0025 recite the

prerequisite resources being flash memory and RAM, which are at least one item

selected from the group consisting of a service, a package and a computer resource, i.e. computer resources).

As to Claim 30, the combination of Clohessy et al. and McGuire et al. discloses the program product of claim 25, further comprising program code for caching the information derived from response on the server (Mcguire et al. discloses server caching – Column 13, lines 35-38).

As to Claim 31, the combination of Clohessy et al. and McGuire et al. discloses the program product of claim 25, wherein the final set of OSGi bundles includes bundles that are identified from a repository accessed by the server (Clohessy et al. – Page 4, paragraphs 0042 and 0043 recite the process of loading OSGi bundles residing on the server to the client).

As to Claim 32, the combination of Clohessy et al. and McGuire et al. discloses the program product of claim 25, further comprising:

program code for determining whether the client has the prerequisites, wherein any prerequisites that the client device does not have are identified as the resource limitations (McGuire et al. disclose the client executing the comparison of its resources against prerequisites and sending the needed list to the server - Column 4, lines 21-27); and

program code for sending the response from the client device to the server

Mcguire et al. discloses the server sending the necessary files to the client based on a

response from the client on resource deficiency - Column 4, lines 30-37).

The motivation and obviousness arguments are the same as in Claim 1.

6.   Claims 4, 12, 19 and 28 are rejected under 35 U.S.C. 103(a) as being

unpatentable over US 2003/0023661 A1 (Clohessy et al.) as applied to claims 3, 18 and

27 above, and further in view of US 2003/0131226 A1 (Spencer et al.).

As to Claim 4, the combination of Clohessy et al. and McGuire et al. disclose the

method of claim 3, wherein the loading comprises the server instructing the client device

to load the final set of OSGi bundles (Clohessy et al. – Figure 4, elements 108 and 114

show loading the final set of OSGi bundles on the client device) .

The combination of Clohessy et al. and McGuire et al. do not disclose in a

particular order, but Spencer et al. disclose in a particular order (Spencer et al. – Page

1, paragraph 0004 discloses downloading components in a particular order).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine the method of downloading in a particular order taught

by Spencer et al., with the server instructing the client device to load the final set of

OSGi bundles taught by the combination of Clohessy et al. and Mcguire et al., in order

to load components according to whether they that require the presence of others on

the user's device (Spencer et al. – Page 1, paragraph 0004).

As to Claim 12, the combination of Clohessy et al. and McGuire disclose the

method of claim 11, wherein the loading comprises the server instructing the client

device to load the final set of OSGi bundles (Clohessy et al. – Figure 4, elements 108

and 114 show loading the final set of OSGi bundles on the client device).

The combination of Clohessy et al. and McGuire et al. does not disclose in a

particular order, but Spencer et al. disclose in a particular order (Spencer et al. – Page

1, paragraph 0004 recites downloading components in a particular order).

The motivation and obviousness arguments are the same as in Claim 4.

As to Claim 19, the combination of Clohessy et al. and Mcguire et al. disclose the

system of claim 18, wherein the bundle loading system comprises an instruction

passing system for instructing the client device to load the final set of OSGi bundles

(Clohessy et al. – Figure 4, elements 108 and 114 show loading the final set of OSGi

bundles on the client device).

The combination of Clohessy et al. and McGuire et al. do not disclose in a

particular order, but Spencer et al. disclose in a particular order (Spencer et al. – Page

1, paragraph 0004 recites downloading components in a particular order).

The motivation and obviousness arguments are the same as in Claim 4.

As to Claim 28, the combination of Clohessy et al. and Mcguire et al. disclose the

program product of claim 27, wherein the program code for loading comprises program

code for instructing the client device to load the final set of OSGi bundles (Clohessy et

al. – Figure 4, elements 108 and 114 show loading the final set of OSGi bundles on the

client device).

The combination of Clohessy et al. and McGuire et al. do not disclose in a

particular order, but Spencer et al. disclose in a particular order (Spencer et al. – Page

1, paragraph 0004 recites downloading components in a particular order).

The motivation and obviousness arguments are the same as in Claim 4.

7.   Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over the

combination of Clohessy et al. and McGuire et al. as applied to claim 16 above, and

further in view of US 2005/0004974 A1 (Sharma et al.).

As to Claim 24, the combination of Clohessy et al. and McGuire et al. disclose

the system of claim 16.

The combination of Clohessy et al. and McGuire et al. do not disclose wherein

the system uses SyncML DM protocol for communication between the client device and

the server, but Sharma et al. disclose wherein the system uses SyncML DM protocol for

communication between the client device and the server (Sharma et al. – Page 9,

paragraphs 0097 and 0099 recite the use of SyncML Device Management and OSGi to

communicate between client and server).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine the use of SyncML Device Management taught by

Sharma et al., with the communication between client and server taught by the

combination of Clohessy et al. and Mcguire et al.

One of ordinary skill in the art at the time the invention was made would have

been motivated to explicitly support the ability to change service settings on a mobile

device and to be able to download services to it (Sharma et al. – Page 9, paragraph

0099).

Conclusion

8.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure. These include:

US 2002/0184226 A1	Independent class loader for dynamic class loading
US 6,748,396 B2	Independent class loader for dynamic class loading
US 2005/0004974 A1	Device model agent
US 2003/0033214 A1	Media delivery platform
US 2005/0132349 A1	System and method for a software distribution

service

US 2005/0022175 A1   System and method for intra-package delta

compression of data

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Richard G. Keehn whose telephone number is 571-270-

5007. The examiner can normally be reached on Monday through Thursday, 9:00am -

8:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RGK

/Yasin M Barqadle/
Primary Examiner, Art Unit 2456